IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 7549 of 2007(W)

IA.167/02 IN OS.193/2003 of PRINCIPAL SUB COURT, N. PARAVUR

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PETITIONERS:

1. ST.GEORGE TABORE ORTHODOX CHURCH,
   REPRESENTED BY TRUSTEE A.V.JACOB,
   S/O.A.C.VARGHESE, ALUKKAL VEEDU,
   PEECHANIKAD, NORTH ANGAMALY.

2. ST.GEORGE TABORE ORTHODOX CHURCH,
   REPRESENTED BY TRUSTEE A.C.POULOSE,
   S/O.CHACKO, ALUKKAL VEEDU,
   VATTAPARAMBU, ANGAMALY.

BY ADV. SRI.T.K.VENUGOPALAN

RESPONDENTS:

1. P.K.SCARIA, S/O.KUNJAVARA, PARAYIL HOUSE,
   PEECHANIKKAD, PULLYANAM P.O., ANGAMALY.

2. P.I.RAJU, S/O.ISAAC, PYNADATH HOUSE, DO. DO.

3. T.P.JOY, S/O.T.J.PAULOSE, THELAPPILLY HOUSE,
   DO. DO.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 7549 of 2007 W

JUDGMENT

The grievance of the petitioners, who are additional plaintiffs 4 and 5 in O.S.No.193/02 on the file of the Principal Sub Court, North Paravur, is that though the said suit filed by the plaintiffs for a decree of permanent prohibitory injunction restraining the respondents from cutting and removing the trees from the plaint schedule property was decreed by the trial court, in A.S. No.36/97 filed by the respondents before the District Court, North Paravur, stay of operation of the judgment in O.S.No.193/02 was granted until further orders, vide order on I.A.No.167/07, without hearing the arguments of the counsel for the petitioners on 1.3.2007 and that despite the petitioners filing a petition to have the case advanced and stay vacated, orders are not passed thereon, but, in the meanwhile, the respondents are

trying to cut and remove the valuable yielding rubber trees in the plaint schedule property under cover of interim stay of operation of the decree granted by the appellate court.

2. Having heard the submissions of the counsel for the petitioners, I am of the view that, by reason of the first appellate court having passed an interim order staying operation of the decree appealed against until further orders, the plaintiffs shall not suffer irreparable injury.

In the result, I dispose of this writ petition suspending the order dated 1.3.2007 passed by the appellate court on I.A.No.167/07 in A.S.No.36/07 and direct the appellate court to pass appropriate orders on I.A.No.167/07, after hearing both sides, as expeditiously as possible.

6th March, 2007 (K.P.Balachandran, Judge)

tkv